

Internal Revenue Service

Department of the Treasury

Regional Counsel

Mid-Atlantic Region

Address any reply to Appeals
Division at office No. 3

CERTIFIED MAIL

Person to Contact:

Telephone Number:

Refer Reply to:

Date: JUL 15 1986

EIN:/Form Number:

Tax Years:

December 31, 1983 & following
Key District:
Newark

Dear Sir or Madam:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

"You are neither organized nor operated exclusively for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code. Your certificate of incorporation does not limit your purposes to exempt ones within the meaning of section 501(c)(3). Your operations further private, rather than public, interests, and your net earnings inure to the benefit of private individuals."

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

A large black rectangular redaction box covering the signature of the Associate Chief.

Associate Chief,
Appeals Office

CERTIFIED MAIL

PO Box 13163, Room 643
Baltimore, Md. 21203

09 MAY 1985

Gentlemen:

We have considered your application for exemption from Federal Income Tax under the provisions of Section 501(a) and as an organization described in Section 501(c)(3) of the Internal Revenue Code. We have also considered your request that you are not a private foundation under Section 509(a)(1) because you are an organization described in Section 170(b)(1)(A)(i) of the Code.

Section 170(b)(1)(A)(i) of the Code describes an organization which is a church or a convention or association of churches. For a church to qualify as an exempt organization under which contributions are deductible, the church must meet the Section 501(c)(3) organizational and operational tests. The Section 501(c)(3) organizational and operational tests per the Internal Revenue Code and Regulations thereunder are described below.

Section 501(c)(3) of the Code exempts organizations "...organized and operated exclusively for religious, charitable...purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1(a)(1) of the Federal Income Tax Regulations states that in order for an organization to be exempt under Section 501(c)(3) an organization must be both organized and operated exclusively for one or more such purposes. If it fails to meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(2) of the Regulations states that articles of organization refers to the written instrument by which an organization is created.

4/12/85

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code							
Surname							
Date	4-16-85						

237-A (Rev. 6-80) Correspondence Approval and Clearance

Department of the Treasury / Internal Revenue Service

Section 1.501(c)(3)-(b)(4) of the Regulations states that "An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose."

Section 1.501(c)(3)-1(c)(2) of the Regulations states that an organization is not operated exclusively for exempt purposes if its net earnings inure in whole or in part to the benefit of private individuals.

Section 1.501(c)(3)-1(d)(ii) of the Regulations states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. To meet the requirements of this, an organization must establish that it is not operated or organized for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In your organization's case, the [REDACTED] has failed to meet the organizational and operational test requirements as set forth by the Internal Revenue Code and Regulations.

Your certificate of incorporation lacks a provision by which you dedicate the assets of your organization to an exempt purpose or purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

You have indicated that members of your governing body have assigned cash and an automobile to the organization. There is no indication that these assets will not be used for the personal use of the governing body and as such the transfer of such assets indicates a private interest. You have not established that the corporation is not organized or operated for the benefit of a few persons.

Also, the address of the church is the location of the private medical practice of [REDACTED]. This is further indication that the organization has been formed for the private interests of designated individuals.

The organization's by-laws, which is an indication of how the organization will be operated, states that the governing board will be in office until he/she resigns. The control of your organization, therefore, is retained by the creators or founders and benefits private interests rather than a public one.

Your organization is not organized or operated exclusively for an exempt purpose within the meaning of Section 501(c)(3) of the Internal Revenue Code, since the private interests of designated individuals are being served rather than a broad public one.

Accordingly, you are not qualified for exemption as an organization described in Section 501(c)(3) of the Code. Furthermore, you are not qualified for exemption under any other paragraph of section 501(c) of the Code.

Contributions to your organization are not deductible. You should advise your contributors to that effect. You are required to file Federal Income Tax Returns on Form 1120 within two and one-half months following the end of your annual accounting period.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States or the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

In that event we will notify the appropriate state officials, as required by Section 6104(c) of the Code, that based on the information we have available, we are unable to recognize you as an organization described in Section 501(c)(3).

Publication 892, which accompanies this letter describes your appeal rights fully should you decide to appeal this ruling.

If we do not hear from you within 30 days of the date of this letter, this shall become our final determination on the matter.

Sincerely yours,


District Director

Enclosure:

Publication 892